

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JOSE CONTRERAS,

Plaintiff,

v.

AUSTIN POLICE DEPARTMENT,
et al.,

Defendants.

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1:25-CV-83-RP

ORDER

Before the Court is the report and recommendation of United States Magistrate Judge Dustin Howell concerning Plaintiff Jose Contreras’s (“Plaintiff”) complaint pursuant to 28 U.S.C. § 1915(e), 28 U.S.C. § 636(b) and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, (R. & R., Dkt. 5), and Plaintiff’s motion to amend his complaint, (Dkt. 4). In his report and recommendation, Judge Howell recommends that the Court dismiss this action pursuant to 28 U.S.C. § 1915(e)(2)(B). (*Id.* at 5). Plaintiff timely filed objections to the report and recommendation. (Objs., Dkts. 10, 11).

A party may serve and file specific, written objections to a magistrate judge’s findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure de novo review by the district court. 28 U.S.C. § 636(b). Because Plaintiff timely objected to the report and recommendation, the Court reviews the report and recommendation de novo. Having done so and for the reasons given in the report and recommendation, the Court overrules Plaintiff’s objections and adopts the report and recommendation as its own order.

Plaintiff moved to amend his complaint five days after filing his original complaint, within the window to amend as of right. *See* Fed. R. Civ. P. 15(a)(1)(A). So, the Court also considers under

§ 1915(e)(2)(B) the additional defendant Plaintiff seeks to add. Plaintiff seeks to add Lelan Larroqu as a defendant, bringing a claim under the Fourth Amendment. (Dkt. 4). But, Plaintiff's allegations that Larroqu had an affair and threatened him do not form a factual basis for a plausible claim under the Fourth Amendment. Therefore, the Court finds Plaintiff's claims against Larroqu should be dismissed as well.

Accordingly, **IT IS ORDERED** that the report and recommendation of United States Magistrate Judge Dustin Howell (Dkt. 5), is **ADOPTED**. Plaintiff's complaint, (Dkt. 1), is **DISMISSED WITH PREJUDICE**.

SIGNED on March 20, 2025.

A handwritten signature in blue ink, appearing to read "Robert Pitman", written over a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE